



STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

Scott M. Matheson, Governor
Temple A. Reynolds, Executive Director
Dr. G. A. (Jim) Shirazi, Division Director

4241 State Office Building • Salt Lake City, UT 84114 • 801-533-5771

* M E M O R A N D U M *

TO: Ron Daniels

FROM: Tom Tetting

SUBJECT: Concerns facing the Division regarding the Atlas Minerals relationship, ACT/037/051 (General File)

DATE: September 2, 1983

Two areas of contention with Atlas Minerals are currently facing the Division:

1. Exploration of the Henry Mountains involving an interpretation of a definition in the Mined Land Reclamation Act, and
2. A possible breach of Atlas' Mined Land Reclamation Contract.

I hope to outline these issues for you in this memo and would like to meet with you and Jim next week, Wednesday or Thursday.

1. Exploration development on a scale larger than the State has encountered before is occurring and has been proposed for the southern end of the Henry Mountains. A 300-425 drill hole program, involving nearly 10 miles of new roads is equivalent to approximately 38 acres of disturbance. This program has been submitted in four separate installments; an original notice of intention (for 135 holes) and three addendums. Although I gave approval for the original program I have questioned the cumulative impact of the addendums. (I also question the apparent circumventing of the required exploration notice approval via submission of these addendums.)

A policy which I have been implementing has been the limitation of addendums for individual notices of intent to two per year. A letter in which I reminded them of this policy remains with Jim Smith due to his interest and priorities which have prevented his action. In the meantime another (third) addendum arrived today (125 holes).

The problem at hand seems to revolve around the Division's ability or inability to request more detailed information from companies with projects of this size. Atlas has refused to submit any information requested regarding their impacts on hydrologic concerns or surface disturbances. This brings us to the point of definition interpretations: I interpret the definitions of "mining operations to include any and all "activities conducted on the

Memo
Mr. Ron Daniels
September 2, 1983
Page 2

surface of the land for the exploration for ..." (which are larger than 2 acres) to mean that there was foresight enough in the original intention to provide the Division with the ability in certain circumstances to label "exploration" as a "mining operation". If this is so, the Division would indeed be negligent if it did not require submission of more detailed plans in case such as this pursuant to Title 40-8-13.

Disturbances of 38 acres in and around designated Wilderness Study Areas certainly seems to me to be cause for action on this matter. Further, I feel, at this time, that this situation ought to be presented to the Board during the September Executive Session.

2. Atlas Minerals has neglected certain requirements and commitments involving their contract. Atlas' Mined Land Reclamation Contract was originally agreed upon as to form and amount by the Board at the January 27, 1983 hearing. However, it was not signed. Yet, in a letter of January 28, 1983 (attached) the Division outlined a seven point conditional approval plan for "final" approval. This was formulated upon a basic premise that response to these conditions was to occur within 60 days of the Division's receipt of the signed contract, and agreement by Atlas to the conditions. You know part of the story since; The contract wasn't signed because of the previous Board's trepidation and our attorney's uncertainty as to the effectiveness of this type of surety as well as certain clauses and lack of adequate State protection.

On March 17, 1983 (letter attached) Atlas responded and agreed to the conditions offered by the Division. Their commitment was offered unconditionally.

On April 19, 1983 (letter attached) Barbara Roberts sent a letter to Atlas' attorney, Jim Holtcamp explaining the Division's position.

Because a new Board was chosen resulting in an associated time lag the delay increased until the final contract was presented again for signature on June 24, 1983. I was not present and do not know how many copies were signed nor where they went.

Purportedly Atlas' did not receive a copy until the end of July. The Division did, however have possession on June 24, 1983 and so the sixty day time period of the conditions was put into effect. No information required by the conditions has been received in the elapsed seventy days since. Additionally, Atlas has had possession of the requirements necessitated by the conditions for six months.

Memo
Mr. Ron Daniels
September 2, 1983
Page three

What effect should this have upon the Division's perception of Atlas' ability to live up to their commitments? In my mind the lack of response constitutes a breach of contract and a lack of good faith. If the Division does not act on this matter the effectiveness of any and all future communications with the mining industry will be diminished. The Division's credibility will be damaged severely.

I suggest that this matter, also be brought to the Boards attention this month.

TT/jvb

Attachments

cc: Jim Shirazi
Jim Smith



STATE OF UTAH
NATURAL RESOURCES & ENERGY
Oil, Gas & Mining

4241 State Office Building • Salt Lake City, UT 84114 • 801-533-5771

Scott M. Matheson, Governor
Temple A. Reynolds, Executive Director
Cleon B. Feight, Division Director

January 28, 1983

REGISTERED RETURN RECEIPT REQUESTED

Mr. Richard Blubaugh
Atlas Minerals
Moab Mill Office
North Highway 163
Moab, Utah 84532-1207

RE: Conditions Pertaining
to Final Approval
of the Atlas Minerals
Mined Land Reclamation
Contract.
All Atlas Files

Dear Mr. Blubaugh:

Pursuant to the Utah Mined Land Reclamation Act, Title 40-8, Utah Code Annotated, 1953, the Board of Oil, Gas and Mining on October 28, 1982 concurred with the Division staff to issue tentative approval for the Mining and Reclamation Plans and approved the Contract form of surety. In accordance with Section 40-8-13 (4) of the Utah Mined Land Reclamation Act notice was published for a thirty day public comment period commencing on November 19, 1982. No adverse comments were received during that period. The Board subsequently gave final approval to the Contract form and amount of surety on January 27, 1983.

Due to the nature and extent of the review, the following conditions have been attached to the final Division approval. A written commitment from Atlas Minerals satisfying these items should be forwarded to the Division along with the signed and sealed Reclamation Contract.

1. A specific plan, or alternate set of plans, detailing and documenting the type of method(s) proposed to permanently reclaim and seal existing or proposed mine portals, adits, boreholes, vents and shafts should be provided to the Division for review. The details for such closures have not been provided on any Atlas mine plans currently on file. These plans are requested in order to determine whether or not compliance can be achieved with Section 40-8-12 (1), (b) and (c); Rule M-3 (2)(d); and Rule M-10 (2)(a).
2. The Division agrees with the proposal outlined in Atlas Mineral's letter of January 21, 1983 indicating Atlas' intention to permanently

reclaim the Cane Creek Mine, ACT/019/007. However, the purpose of providing a demonstration site for reclamation techniques has been somewhat negated. Therefore the Division requests that additional information be provided detailing Atlas Mineral's reclamation efforts and results of at least one minesite in Colorado (as discussed January 20, 1983 with Richard Blubaugh). This Colorado site should exhibit conditions similar in nature to sites in Utah and essentially be biologically and topographically equivalent. The information submitted should include; percent ground cover of native vegetation, site maps, seed bed preparation methods, seeding or planting techniques, seed rates and amounts, application of amendments if used, topsoil data, and precipitation data, and time of seeding or planting. An annual monitoring report on the progress and success of the reclamation work, including at a minimum the total percent vegetative cover of the seeded species (over time) should be submitted for a period of at least three years.

This request is essentially due to the Division's concern that Atlas' choice of the Cane Creek Mine has not taken into consideration the need for providing a substantial waste rock pile in order to adequately determine vegetative success standards which could be readily transferable to other Atlas minesites in Utah.

3. An ultimate reclamation commitment regarding the removal of irrigation pipe and associated pumping equipment is necessary for the Wood Lease Mine, ACT/037/021. In addition, submittal of water analyses reports substantiating compliance with State Health Department standards (parameters to include radioelement measurements) should be made to the Division for verification. If older analyses are unavailable, a new series of measurements should be taken and submitted as well as a narrative describing the formation source beds for this water.
4. A location map which includes present surface structures, topographic features, access and drainages, as mentioned in the Division's December 8, 1982 letter should be submitted for the Happy Jack Mine, ACT/037/024.
5. An updated map including access to the Cane Creek Mine site, ACT/019/007 is requested per the Division's letter of December 8, 1982.
6. The updated map requested in the Division's letter of December 8, 1982 should also be provided for the Calliham Sage Mine, ACT/037/023.

Mr. Richard Blubaugh
January 28, 1983
Page Three

7. The total estimated bond value for the twenty-one approved mine plans is:

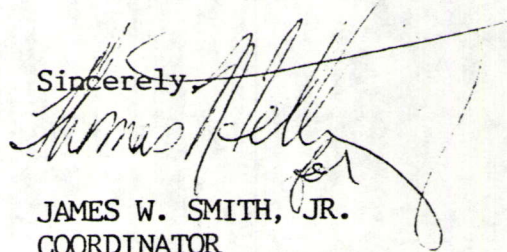
for 1983	\$941,917
for 1984	\$1,036,109
for 1985	\$1,139,720
for 1986	\$1,253,691

These figures include a 10% annual inflation factor incorporated into them and should be confirmed by Atlas.

Upon the Division's receipt of the signed contract and written confirmation of acceptance of the conditions, a sixty day time period will go into effect in which Atlas must respond to the aforementioned seven items. Upon completion of the Division's review of Atlas' response, the Division will issue final approval to Atlas Minerals for the twenty-one mines currently on file.

As always, if you have any questions please do not hesitate to contact me or Tom Tetting of my staff.

Sincerely,



JAMES W. SMITH, JR.
COORDINATOR
MINED LAND DEVELOPMENT

JWS/TNT:lm

cc: Tom Tetting, DOGM
Pam Grubaugh-Littig, DOGM
James Holtcamp, Van Cott, Bagley, Cornwall & McCarthy

Atlas Minerals
Division of Atlas Corporation
Post Office Box 1207
Moab, Utah 84532-1207
Phone (801) 259-5131

File #5
Copies to Pam, Tom T.

JIM
MAR 22 1983

March 17, 1983

Mr. James W. Smith, Jr.
Coordinator
Mined Land Development
Division of Oil, Gas & Mining
Utah Department of Natural Resources & Energy
4241 State Office Building
Salt Lake City, UT 84114

RE: Final Approval of the Atlas
Minerals Mined Land Reclamation
Contract

Dear Mr. Smith:

This correspondence transmits three originals of the "Mined Land Surety Contract" which have been signed and sealed by Mr. Edward R. Farley, Jr., President and Chairman of the Board of Atlas Corporation. We look forward to receiving two of these with the approval of the Board affixed in the near future.

Additionally, pursuant to your letter of January 28, 1983, we do agree to adhere to and comply with Conditions 1-6 as stipulated in your letter. Detailed responses to these Conditions will be forwarded to you within the allotted sixty day time period.

However, the amounts specified in Condition 7 were reviewed with Pamela Grubaugh-Littig of your staff and subsequently revised as shown in her letter dated February 9, 1983. The 1983 figure reflects our current reclamation cost estimate for nineteen of our twenty-one permitted mines in the State of Utah. The other figures include a ten percent escalation factor from the previous year, which we understand is the current procedure used by the Division.

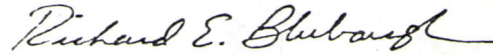
The other two permitted mines are covered by a \$25,000 surety bond with the Board of State Lands and the Division of State Lands and Forestry. This is on record with your Mr. T. Tetting by way of letter from Mr. John Blake dated February 22, 1983.

[Faint stamp: RECEIVED]

[Faint stamp: DIVISION OF OIL, GAS & MINING]

We will be forwarding our responses to Condition 1-6 in the near future. We look forward to the final approval by the Board and a successful resolution to this matter. Please contact me or R. Broschat at your convenience should you have any questions.

Yours very truly,



Richard E. Blubaugh
Regulatory Affairs Manager

REB/sw

Encl.

cc: R. R. Weaver (w/o enc.)
M. A. Drozd (w/o enc.)
T. L. Wilson (w/o enc.)
R. J. Broschat (w/enc.)
J. Holtkamp, Van Cott, Bagley, Cornwall & McCarthy (w/enc.)



THE ATTORNEY GENERAL
STATE OF UTAH

*Contd to: Tom T
Jim Smith
Paula F
Then: File in Atlas
Minerals File*

DAVID L. WILKINSON
ATTORNEY GENERAL

PAUL M. TINKER
DEPUTY ATTORNEY GENERAL

RICHARD L. DEWSNUP
Solicitor General

FRANKLYN B. MATHESON, Chief
Governmental Affairs Division

ROBERT R. WALLACE, Chief
Litigation Division

WILLIAM T. EVANS, Chief
Human Resources Division

DONALD S. COLEMAN, Chief
Physical Resources Division

MARK K. BUCHI, Chief
Tax & Business Regulation Division

April 19, 1983

RECEIVED
APR 30 1983

James A. Holtkamp
Van Cott, Bagley, Cornwall & McCarthy
Attorneys at Law
Suite 1600
50 South Main Street
Salt Lake City, Utah 84144

DIVISION OF
OIL GAS & MINING

Dear Jim:

This letter is in response to your letter of March 30, 1983 in which you expressed your concern over the additional requirements imposed on the Atlas Surety contract by the Board of Oil, Gas and Mining. In the process of reviewing the contract prior to signing, the Board determined that, since the form was a "self bond," continuing financial data and other clauses should be inserted.

As you know, the Board has been grappling with the "self bond" form for several months. Most of the concerns of the members center upon their duty to adequately protect the State of Utah should an operator fail to carry out its reclamation obligations. In response to these concerns, three clauses have been drafted and are required in all prospective "self bond" surety contracts. These are:

1. Annual submittal of financial data in the form of a 10-K report;
2. If the operator is a subsidiary, a corporate guaranty from the parent corporation is required; and
3. If the Board at any time in the future determines that the "self bond" form of surety is not adequate protection for the State, then, after 90 days written notice to the operator, the contract is rescinded.

You will notice that number three, above, is not operator specific, but the clause will operate to rescind all self bond surety agreements should the Board make the determination that self bonding will no longer be accepted.

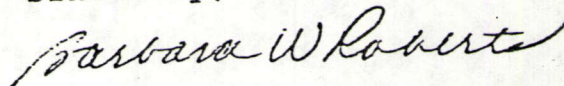
James A. Holtkamp
April 19, 1983
Page Two

To answer your letter specifically, if Atlas would like to be heard by the Board regarding these matters, you may call the Division of Oil, Gas and Mining and ask to be heard before the Board. Prior approval as to form, i.e., the self bond as opposed to some other surety agreement, was given but the substance of the contract had not been approved by the Board. Final approval of a surety contract is effective on the date it is signed by the Board.

It is clear that neither the surety contract nor any of the extraneous proposals or agreements accomplish the purpose of the rescission clause and the requirement for periodic financial data.

I appreciate the inconvenience that this requirement imposes on an already lengthy process. If there is anything that I or the Division can do to help you on this matter, please contact us.

Sincerely,



BARBARA W. ROBERTS
Assistant Attorney General

BWR/gh

MINED LANDS SURETY CONTRACT

ACT 1037/051

THIS CONTRACT, made and entered into as of the 27th day of January, 1983, between Atlas Corporation, a Delaware corporation (hereinafter called the "Operator"), and the Board of Oil, Gas, and Mining, duly authorized and existing by virtue of the laws of the State of Utah (hereinafter called the "Board").

W I T N E S S E T H:

WHEREAS, the Operator is the owner or lessee and is in possession of certain mines and associated workings in the State of Utah (hereinafter called the "Mines"), which are more particularly described on Exhibit "A", attached hereto and by this reference made a part hereof; and

WHEREAS, the operator has filed Notices of Intention to Commence Mining Operations and Mining and Reclamation Plans for the Mines; and

WHEREAS, certain of the aforesaid Notices and Plans have been approved by the Board as shown on Exhibit "B" attached hereto and by this reference made a part hereof; and

WHEREAS, the Operator is able and willing to conduct reclamation operations at the Mines in accordance with the

requirements specified in the aforesaid Notices and Plans, the Mined Land Reclamation Act, and the rules and regulations adopted in connection therewith; and

WHEREAS, the Board has considered the factual information and recommendations provided by the staff of the Division of Oil, Gas, and Mining as to the magnitude, type and costs of the approved reclamation activities planned for the Mines; and

WHEREAS, the Board is cognizant of the nature, extent, duration of the operations at the mines, the Operator's financial status, and the Operator's ability to carry out the planned work.

NOW, THEREFORE, in consideration of the promises and covenants herein contained the Operator and the Board hereby agree as follows:

1. The Operator agrees to reclaim the land affected by mining activities at the Mines in accordance with the Operator's approved Mining and Reclamation Plans and any future amendments or additions thereto, the Mined Land Reclamation Act, and the Regulations adopted under said Act.

2. The Operator and the Board agree that, except as specifically provided herein, reclamation of the land affected by mining activities at the Mines shall be governed only by the Operator's approved Mining and Reclamation Plans and any future

amendments or additions thereto as approved by the Board or Division, along with applicable laws and regulations.

3. The Operator shall be an independent contractor and as such shall have no authorization to bind the State of Utah or the Board to any agreement except as herein set forth.

4. The Operator agrees to hold harmless the State of Utah, the Board, and the Division of Oil, Gas, and Mining from claims for personal injury or death, damages to personal property and liens of workmen and materialmen, howsoever caused, in performance of this contract.

5. In lieu of accepting a bond or cash surety, the Board agrees to accept the Operator's personal guarantee as set forth in this contract, to reclaim the land affected by the Mines in accordance with the Operator's Mining and Reclamation Plans listed in Exhibit "B" and any future amendments or additions thereto, as approved by the Board.

6. The reclamation obligation for which this contract is a personal guaranty shall be released by the Board as to each of the Mines upon the completion of reclamation as specified in the state statute, regulations, and approved Mining and Reclamation Plan applicable to such mine. Any determination by the Division that the Operator has not complied with an applicable statute, regulation or approved

Mining and Reclamation Plan requirement may be reviewed by the Board upon request of the Operator after notice and hearing.

7. This Contract shall fulfill the Operator's obligations under Section 40-8-14, Utah Code Annotated, and Rule M-5 of the Board's Regulations.

8. If the Operator does not comply with its obligations under this Contract as to any of the Mines, the Board shall give to the Operator a notice of noncompliance and shall initiate proceedings to revoke the approval of the Notice of Intention to Commence Mining Operations relating to the mine which is not in compliance with this Contract. Such proceedings shall be governed by applicable law.

9. If the Mined Land Reclamation Act, the regulations adopted thereunder, or any other statute or regulation, are amended to remove the legal requirement serving as the basis for any provision of this Contract, the Operator will no longer be required to comply with such provision of the Contract. Nothing herein, however, shall be deemed to relieve the Operator from compliance with applicable laws and regulations relating to reclamation of land affected by the operations of any of the mines notwithstanding any provisions of this Contract.

10. This contract shall apply to those mines listed on Exhibit "B" and will apply each of the other Mines as the

applicable Mining and Reclamation Plan for that mine is approved by the Board.

11. This Contract shall supersede all individual surety contracts currently in force between Atlas and the Board, unless Atlas requests and the Division or Board, as appropriate, approves the continuation in force of any such contract.

IN WITNESS WHEREOF, the parties hereto have respectively set their hands and seals this ____ day of _____, 19__.

ATTEST:

ATLAS CORPORATION

Cheryl J. Yura
Assistant Secretary

SEAL

Edward R. Farley
President

BOARD OF OIL, GAS, AND MINING

L. R. Henderson

John C. Hays

Robert L. Hays

Richard B. Turner

L. Starks McIntire

Dianne P. Nelson

Greg A. White

STATE OF UTAH)
 : ss.
COUNTY OF)

On the _____ day of _____, 19____, personally
appeared before me _____ Edward R. Farley, Jr. who,
being by me duly sworn, did say that he is the _____ President
_____ of Atlas Corporation, a corporation, and
that the foregoing instrument was signed on behalf of said cor-
poration by authority of its Bylaws or a resolution of its Board
of Directors, and said _____ Edward R. Farley, Jr. acknowl-
edged to me that said corporation executed the same.

Rose Marie Church
NOTARY PUBLIC
Residing at: Presidents Jct. N.J.

My Commission Expires:
May 21, 1985

_____, acting as Secretary of the Board of Oil, Gas, and Mining of the State of Utah, hereby certifies that the foregoing Surety Agreement was approved by the Board on the 27th day of January, 1983, in Cause Nos. ACT/019/007, ACT/019/009, ACT/015/011, ACT/015/013, ACT/015/014, ACT/037/003, ACT/037/005, ACT/037/006, ACT/037/007, ACT/037/008, ACT/037/010, ACT/037/011, ACT/037/012, ACT/037/013, ACT/037/017, ACT/037/019, ACT/037/021, ACT/037/023, ACT/037/024, ACT/037/034, ACT/037/040.

EXHIBIT A

1. Mines operated by Atlas:

Calliham/Sage

Dunn

Far West

Four Corners

Pandora

Patti Ann

Probe

Rim Columbus

Snow

Standard I

Velvet

Wood Lease

2. Mines owned or leased by Atlas but operated by someone other than Atlas:

Cactus Rat

Cane Creek

Happy Jack

Ivy

Locust Spider

Louise

Radium King

Standard II

Windfall

EXHIBIT B

Mines subject to approved notices of intent:

Dunn	11/7/77
Ivy	2/3/79
Locust Spider	4/20/77
Louise	9/28/78
Pandora	4/20/77
Patti Ann	9/24/76
Probe	4/13/77
Radium King	3/22/77
Rim Columbus	3/22/77
Standard II	10/27/78
Velvet	11/29/79
Windfall	4/20/77



THE ATTORNEY GENERAL
STATE OF UTAH

*Route to: Tom T. ✓
Jim Smith ✓
Paula F. ✓
Then: File in Atlas
Minerals of File Bn*

ACT/032/051

DAVID L. WILKINSON
ATTORNEY GENERAL

PAUL M. TINKER
DEPUTY ATTORNEY GENERAL

RICHARD L. DEWSNUP
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Tax & Business Regulation Division

April 19, 1983

RECEIVED

APR 20 1983

DIVISION OF
OIL, GAS & MINING

James A. Holtkamp
Van Cott, Bagley, Cornwall & McCarthy
Attorneys at Law
Suite 1600
50 South Main Street
Salt Lake City, Utah 84144

JIM
APR 26 1983

Dear Jim:

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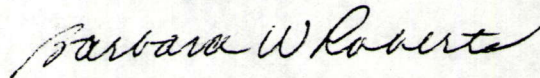
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I appreciate the inconvenience that this requirement imposes on an already lengthy process. If there is anything that I or the Division can do to help you on this matter, please contact us.

Sincerely,

A handwritten signature in cursive script, reading "Barbara W. Roberts".

BARBARA W. ROBERTS
Assistant Attorney General

BWR/gh